

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1732

IN THE MATTER OF:

Served August 5, 1977

| | | |
|----------------------------------|---|----------------|
| Order Directing D. C. TRANSIT |) | |
| SYSTEM, INC., to Comply with |) | Docket No. 294 |
| Regulation Nos. 55-08 and 65-03 |) | |
| |) | |
| Investigation to Determine the |) | |
| Nature of Joint Operations, if |) | |
| any, between D. C. TRANSIT |) | |
| SYSTEM, INC., and WASHINGTON, |) | Docket No. 320 |
| VIRGINIA and MARYLAND COACH CO., |) | |
| INC., and Order Directing |) | |
| Compliance |) | |

Under consideration herein is the record in the above-captioned proceedings, including respondent D. C. Transit System, Inc.'s (Transit) petition for reconsideration, filed July 22, 1977, and the record in Docket No. 375, of which the Commission hereby takes official notice.

By Order No. 1713, served June 23, 1977, the reconsideration of which is the subject of Transit's above-referenced petition, Certificate of Public Convenience and Necessity No. 5-A was revoked because Transit was found not to be fit, willing and able to continue operations as a carrier. See Compact, Title II, Article XII, §4(b). By Order No. 1714, also served June 23, 1977, Certificate No. 5-A was revoked for the failure of Transit to maintain adequate security for the protection of the public. See Compact, Title II, Article XII, §9(a). No reconsideration has been sought of Order No. 1714, and that order is administratively final as of July 25, 1977. Compact, Title II, Article XII, §16.

In its petition, Transit contends that the conclusions reached in Order No. 1713 are unsupported by the facts of record, and further argues that Transit was not afforded an opportunity to respond to the allegations raised in Dockets 294 and 320. We find no merit in these arguments.

Transit contends that prior to the final hearing of March 24, 1977, the evidence before the Commission was insufficient to support the conclusions reached in Order No. 1713. In support of this position, it relies on a statement in a staff petition that the evidence "... does not afford a completely satisfactory basis. . ." for making certain

determinations. The quoted statement is neither a finding made by the Commission, nor can it be construed as standing for the proposition for which it is cited by Transit. Moreover, Transit fails to allege specific evidentiary deficiencies with respect to any conclusion reached in Order No. 1713.

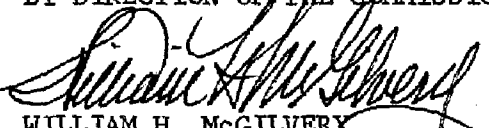
Transit further contends that it had no opportunity to explain the evidence of record. To the contrary, Transit participated in four hearings at which it had unrestricted opportunities to present such evidence as it may have deemed pertinent to the matters under investigation. Transit seems to assert that the conclusions reached in Order No. 1713 rest completely on documentary evidence admitted at the hearing of March 24, 1977. Even the most cursory review of Order No. 1713 negates such a contention. Contrary to Transit's position, the conclusions reached in Order No. 1713, to the extent specifically complained of, rest not on the documents alone, but on their interrelationship with evidence adduced throughout the entire proceeding and fully subject to rebuttal by Transit.

Petitioner fails to allege the existence of any specific evidence that would justify conclusions contrary to those reached in Order No. 1713. In fact, Transit fails to assert any error whatsoever with respect to our finding that Transit unlawfully usurped control of Washington, Virginia and Maryland Coach Company, Inc., in violation of Title II, Article XII, §12 of the Compact. Also, even assuming, arguendo, the validity of Transit's purported agency agreement with Blue Lines, Inc., the petition contains no explanation or offer of proof concerning charter operations conducted by the agent (Transit) beyond the scope of its principal's certificate of public convenience and necessity.

Finally, reconsideration of Order No. 1713, even if warranted, would not result in the reinstatement of Certificate No. 5-A. As noted above, that certificate also has been independently revoked pursuant to Order No. 1714 which is administratively final.

THEREFORE, IT IS ORDERED, that the above-referenced petition for reconsideration of D. C. Transit System, Inc., be, and it is hereby denied.

BY DIRECTION OF THE COMMISSION:


WILLIAM H. MCGILVER
Executive Director

SHANNON, Commissioner, not participating.